

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

TERRENCE OLIPHANT, §
Plaintiff, §
v. § Case No. 6:22-cv-274-JDK-KNM
PAM PACE, et al., §
Defendants. §

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Terrence Oliphant, a Texas Department of Criminal Justice inmate proceeding pro se, brings this civil rights lawsuit under 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636.

Before the Court is Plaintiff's motion for a preliminary injunction and temporary restraining order (Docket No. 4). In his motion, Plaintiff asks that prison officials be restraining from tampering with his food, providing "unsafe and unsanitary conditions," failing to act on "all violations," failing to diagnose, treat, and cure his illnesses and injuries, tampering with medical grievances and tests, denying and delaying medical care, denying outdoor recreation and exercise, and serving inadequate meals.

On October 5, 2022, Judge Mitchell issued a Report and Recommendation recommending that the Court deny Plaintiff's motion. Docket No. 9. The Magistrate

Judge observed that Plaintiff did not substantiate his claims for injunctive relief with factual allegations and concluded that Plaintiff failed to show a substantial likelihood of success on the merits of his claims, a substantial likelihood of irreparable injury if the requested injunctive relief was not granted, or that the requested injunctive relief would not disserve the public interest. Plaintiff filed timely objections. Docket No. 15.

Where a party timely objects to the Report and Recommendation, the Court reviews the objected-to findings and conclusions of the Magistrate Judge de novo. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), superseded on other grounds by statute, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Plaintiff objected by asserting that his life is in danger from food tampering and the denial of medical care. In support of his objections, he attached exhibits showing that he has been seen at nursing sick call and scheduled to see a medical provider. Plaintiff's objections, however, wholly fail to controvert the proposed findings and conclusions of the Magistrate Judge's Report.

Having conducted a de novo review of the record in this case and the Magistrate Judge's Report, the Court has determined that the Report of the Magistrate Judge is correct and that Plaintiff's objections are without merit. Accordingly, the Court hereby **ADOPTS** the Report of the Magistrate Judge (Docket

No. 9) as the opinion of the District Court and **DENIES** Plaintiff's motion for a preliminary injunction or temporary restraining order (Docket No. 4).

So **ORDERED** and **SIGNED** this **15th** day of **November, 2022**.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE